

REMARKS

Claims 1-21 are in this application and are presented for consideration.

Applicant thanks the Examiner for removing the previous rejections.

The independent claims have been rejected as being obvious over Meier (US 2004/0182386).

Applicant has reviewed Meier, especially with regard to this reference qualifying under 35 USC section 102(e), with regard to the filing date of its corresponding international application. In order for an international filing date to be used under 102(e), the international application must have been published in English. It is applicant's understanding that the international application corresponding to Meier, (PCT/EPO02/09147), was not published in English. Therefore Meier is not prior art under 35 USC section 102(e). If the Examiner reviews PCT/EPO02/09147, published as WO 03/018096, data item "(26)" indicates that the publication language is German. Therefore the PCT international filing date of Meier cannot be used to indicate prior art under 102(e). The rejection is therefore overcome.

Applicant further notes that the priority date of the present application is before the publication date of Meier. A certified copy of the priority document has been submitted in this application in order to perfect priority. Therefore Meier cannot be considered prior based on its publication date.

Even if Meier was prior, this reference does not have all the features of the independent claims. Furthermore, applicant has found no incentive or motivation to modify Meier to have all the features of the independent claims.

Claims 1 and 18 set forth a signal line extending along the breathing tube and a contactless interface between the signal line and the sensor means. The rejection indicates that the signal line is described in Meier in paragraph 42, and that the contactless interface is described in paragraph 24. Applicant has reviewed these portions of Meier, and finds that paragraphs 24 and 42 are two alternate structures. Meier discloses that either the data line of paragraph 42 is used, or the wireless transmission of paragraph 24 is used. Applicant finds no indication in Meier that the structure of paragraph 24 is to be used with the structure of paragraph 42. Therefore the relationship between the contactless interface and signal line of claims 1 and 18 is not present in Meier. Applicant further finds no suggestion in the applied prior art for this relationship. The rejection does not indicate where any suggestion for this relationship could be found. Therefore claims 1 and 18 set forth features not found in the prior art, which causes claims 1 and 18 to define over the prior art.

Paragraph 24 in Meier describes signals generated on the sensor device being transmitted to the humidification device or to a control device. There is no indication that signals generated from a sensor are transmitted to a signal line, especially any signal line described in paragraph 42. Applicant further notes that paragraph 43 of Meier indicates that a wireless transmission is an alternative to the data line described in paragraph 42. Therefore it is quite clear that Meier does not disclose or lead a person to use a wireless transmission between a signal line and a sensor means. The wireless transmission of Meier therefore is arranged differently than the contactless interface of claims 1 and 18. Therefore even if Meier was prior to the present application, Meier fails to teach or suggest all the features of claims 1

and 18. Claims 1 and 18 therefore further define over Meier.

Claim 11 sets forth the step of providing a contactless interface between the breathing gas tube and the sensor for transmitting sensor signals. The rejection again uses paragraphs 24 and 42 of Meier to anticipate this feature of claim 11. As described above, Meier only teaches alternately using a data line and a wireless transmission. There is no disclosure in Meier of using both together, especially as set forth in claim 11. Therefore claim 11 also further defines over the rejection.

Claims 6 and 7 set forth that the contactless interface includes a first inductive interface. The rejection states that paragraph 24 of Meier sets forth this feature. Applicant notes that paragraph 24 describes a wireless transmission and an infrared transmission, but there is no specific teaching of an inductive interface. Wireless transmissions do not necessarily have to be inductive, and infrared transmissions are clearly not inductive. Therefore claims 6 and 7 further define over the prior art.

Claim 7 further sets forth that the inductive interface is designed to transmit a supply voltage. The rejection indicates that this is present in Meier in paragraphs 24 and 43. Applicant has reviewed paragraph 24, and finds no teaching nor suggestion of a supply voltage being transmitted. Furthermore, paragraph 43 indicates providing a voltage supply for the sensor by means of a voltage source, for example a button cell or a solar cell. Applicant finds no indication in paragraph 43 that an inductive interface is to transmit a supply voltage. Claim 7 therefore further defines over Meier.

Claims 10 and 21 have been amended to set forth a second contactless interface between

the breathing gas tube and the respirator. Applicant finds no teaching nor suggestion in Meier of another contactless interface, especially between breathing gas tube and a respirator. Claims 10 and 21 therefore further define over Meier.

If the Examiner has any comments or suggestions which would further favorable prosecution of this application, the Examiner is invited to contact applicant's representative by telephone to discuss possible changes.

At this time applicant respectfully requests reconsideration of this application, and based on the above amendments and remarks, respectfully solicits allowance of this application.

Respectfully submitted
for Applicant,



By: _____

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SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-0410.